

## Ottawa

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HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

## Ottawa

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## Kennedy Stewart

Member of Parliament / Député  
Burnaby—Douglas / Burnaby—Douglas

## Circonscription

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National Energy Board  
444 Seventh Ave SW  
Calgary AB T2P 0X8

February 19, 2014

Attention: Sheri Young, Secretary to the National Energy Board  
Via email: [sheri.young@neb-one.gc.ca](mailto:sheri.young@neb-one.gc.ca)

Dear Ms. Young:

**Re: Response to Mr. Shawn Denstedt's letter on behalf of Kinder Morgan regarding my request to extend the public application process deadline with respect to the application to build a new Trans Mountain Pipeline**

At the core of my request for an extension to the deadline for the public to apply to participate in National Energy Board (NEB) hearings concerning the Trans Mountain pipeline expansion are three objections to how the process has been conducted to date:

- 1) The company has submitted an incomplete application to the NEB as it has not decided on a single, final route through Burnaby and other BC communities.
- 2) The company and the NEB have failed to adequately inform the public about the project.
- 3) Local residents and business owners do not have adequate access to the project's information.

Mr. Denstedt's letter of 14 February 2014 confirms concerns I raised in my 10 February 2014 letter. Alarming, it now appears the company may have altered its public project website to make it appear as if it has been more forthcoming than it has in fact been. As such, I feel this confirmation strengthens my request for a deadline extension.

Each concern is addressed below:

### **1. Incomplete Application**

In response to my assertion that the company has not settled on a final 150 metre corridor, Mr. Denstedt's letter confirms the company is considering multiple 150 metre corridors through Burnaby. Mr. Denstedt writes, "Alternative corridors are set out in the application and are available to the public..." Mr. Denstedt then references the same text in the application that I raised concerns about in my previous letter. The facilities application offers one sentence mentioning a new route in the Lougheed corridor and one sentence about a different route in North Burnaby. Regarding this North Burnaby route, the company states, "[o]ther more direct alternatives.... are also under consideration." (See Appendix 1) Thus, the application implies the company is considering a third or even fourth route in this area, although details and maps have not be made available to the public.

### **2. Inadequate Information for the Public**

Kinder Morgan has presented conflicting information regarding its route to residents of Burnaby-Douglas as late as the week of February 10<sup>th</sup>. In a letter dated 15 January 2014, hand delivered to residents on 31 January 2014 the company writes: "While your lands are in close proximity to our study corridor, Trans Mountain does not anticipate entering your property.... Should the need for investigations or entry onto your property arise in the future, a land agent from the project will contact you..." (See Appendix 2) For many residents this was the first time they had been contacted by the company and it was received as new information that their property was either on or near any route. In another document hand delivered to some residents during the week of 3 February 2014, the company writes "In our Facilities Application we've identified a potential pipeline corridor, and in some cases, multiple alternatives." (See Appendix 3)

Many of these residents, as directed by the letter, went to the project's website at [www.transmountain.com](http://www.transmountain.com), where they consulted the company's route map and discovered their property is located near or within the applied-for 150 meter corridor. Some residents then called Kinder Morgan and were told the company had another 'preferred route' which was not illustrated on the company's route map.

There is an overall lack of information about these alternative routes. It appears the 'selected' route is the only route used for emergency planning scenarios in the application. For example, Overland and Stream Flow Modeling Maps illustrating how released or leaked oil would travel are entirely based on the 'selected route.' (See Appendix 4) These scenarios have not been provided for alternative routes, thus those who may be affected by a spill or leak from these other routes have no information as to how they might be affected.

Mr. Denstedt writes Trans Mountain undertook a detailed corridor selection process and consulted "...with communities along the proposed route... including information about the proposed and alternative routes." He states that notice was provided to all properties on the proposed route and alternate routes and "constituents have had the opportunity to participate fully in the consultation process... including those alternatives set out..." To support his points, Mr. Denstedt provides a link to

new content at Trans Mountain's Facility Application website that includes a map depicting a second, distinct pipeline route in both the northern and southern areas of Burnaby. (See Appendix 5)

Disturbingly, this content was added to the Trans Mountain website 10 February 2014 – well after the 16 December 2013 application submission, after my letter to the NEB and only two days prior to the NEB's deadline for public applications. This late addition to the Trans Mountain website is not posted in the NEB's document repository – the official public source for information about what the NEB panel will consider nor has the alternate route been added to the primary 'interactive map' the company uses on its website. This late alteration to the public website suggests the company is aware of its error and has panicked to provide information.

The addition of a new, alternate route at the Trans Mountain project website on 10 February 2014 does not constitute adequate public consultation. Were it the case that the company gave equal attention to both routes during consultation, and the public was equally aware of both routes, then those who may be 'directly affected' by either route would not be hearing about it for the first time in recent media reports or in hand-delivered letters from Kinder Morgan half-way through the public application process and there would be no need for further clarification with a last minute, online statement.

In terms of the NEB's own efforts, freedom of information requests reveal the NEB sent information notices to residents and businesses along the 'selected' route highlighted in Kinder Morgan's final application. The note states, "You may be eligible to participate in the NEB hearings..." and invited people to attend online information sessions. (See Appendix 6) After matching the postal codes and routes where these information cards were distributed it does not appear businesses and residents on or near the 'alternate, preferred' route received information cards.

Clearly, potentially affected residents, business owners and community groups on or near alternate routes have not been provided with the same opportunity to learn about how they can participate in hearings as those on or near the selected route. Several residents who contacted my office were very surprised to learn through media stories, mere days before the application process closed, that they may be on an alternate route. Many more are still unaware.

### **3. Inaccessible Information**

Kinder Morgan's application is over 15,000 pages long. The version posted to the NEB document repository contains hundreds of appendices. A Kinder Morgan spokesperson publicly stated that printing the full application would cost \$6,000.00. The application proposes enormous construction in Burnaby; a new 36 inch pipeline and 2 new 30 inch pipelines, a three- berth terminal at Westridge and a doubling in size of the tank farm on Burnaby Mountain. Despite the enormity of what is being proposed, Kinder Morgan has not provided Burnaby libraries with hard copies of the application for those who cannot access it online. It is understandable, although distressing for businesses and residents, that Kinder Morgan can decide on a final, detailed route within a well-publicized 150 meter corridor. However, it is unreasonable to broadly promote a "selected" route in its application, bury an "alternate" route in the back pages, and expect those who may be "directly affected" by either to have had the time or resources to read through over 15,000 pages to find two sentences that allude to other routes.

## Conclusion

Mr. Denstedt's letter only strengthens my view that Kinder Morgan was not prepared to make a final application in December 2013 as it has not yet settled on a final pipeline route. The application is simply incomplete. As a result of this indecision, constituents have not been adequately informed.

In light of this, I restate my request that the NEB reopen and extend the public application period until

- 1) the company makes public a final, single preferred route, and
- 2) residents of my riding have had a reasonable opportunity to consider how they may be directly affected by the construction and operation of a new pipeline along that route.

Thank you for your immediate attention to this important matter. I look forward to hearing the panel's decision.

A handwritten signature in black ink that reads "E Kennedy Stewart". The signature is written in a cursive, flowing style.

Kennedy Stewart

Member of Parliament for Burnaby-Douglas

cc: Mr. Shawn Denstedt Q.C

Fax: 403-260-7024

## Appendices

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## Appendix 1: Alternate Route Text from Application

Source: Trans Mountain Facilities Application

Canadian National Railway Company (CN) right-of-way and new South Fraser Perimeter Road corridor on the south side of the Fraser River. Accordingly, the proposed pipeline corridor leaves the existing TMPL right-of-way near a golf course and heads north on new corridor a short distance across farmland in the Salmon River valley before reaching the CN right-of-way. Minor deviations in the Salmon River area are being considered to follow property lines, a second golf course and avoid a local natural area further north if possible before joining the CN right-of-way. From this point, the proposed pipeline corridor turns west, paralleling the CN right-of-way and later the South Fraser Perimeter Road right-of-way in a westerly direction through Langley and Surrey to the crossing location of the Fraser River near the Port Mann Bridge. The proposed pipeline corridor traverses the edge of the Surrey Bend Regional Park for about 3 km, although a minor deviation is being considered to reduce this length by taking advantage of surplus land released from the recently constructed South Fraser Perimeter Road project.

Two primary locations are being considered to cross the main stem of the Fraser River between the cities of Surrey and Coquitlam using horizontal directional drilling (HDD), a trenchless method of construction (see Plate 5). Currently, the proposed pipeline corridor is located approximately 500 m east of the existing TMPL pipeline, but an alternative location is being considered on the east side of the Port Mann Bridge. On the north side of the Fraser River, urbanization in the cities of Coquitlam and Burnaby has encroached considerably on the existing TMPL right-of-way in the past 60 years to make contiguous looping extremely difficult (see Plate 6). The proposed pipeline corridor follows the Lougheed Highway, although a deviation is being considered to traverse existing industrial lands and railway easements within the Brunette River Conservation Area. Both the proposed pipeline corridor and the deviation eventually connect to TMPL's Burnaby Terminal via other city streets.

### **4.2.5 Burnaby to Westridge Segment**

From the Burnaby Terminal to the Westridge Marine Terminal on Burrard Inlet, urbanization in the City of Burnaby has encroached considerably on the existing TMPL right-of-way in the past 60 years to make contiguous looping with twin 762 mm (NPS 30) OD buried delivery lines extremely difficult. The proposed pipeline corridor follows alongside Burnaby Mountain Parkway, Hastings Street, and Cliff Avenue before turning east into TMPL's Westridge Marine Terminal. Other more direct alternatives involving partial or total trenchless (HDD or tunnel) methods of construction are also under consideration.

## Appendix 2: Kinder Morgan Letter Hand Delivered to Residents on January 31, 2014

Source: Constituents



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Trans Mountain Expansion Project

✉ Email: [info@transmountain.com](mailto:info@transmountain.com) | ☎ Phone: 1.866.514.6700 | 🌐 Website: [www.transmountain.com](http://www.transmountain.com)

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January 15, 2014

Dear Landowner(s),

**Re: Trans Mountain Expansion Project – Engineering and Environmental Field Studies**

As you may be aware, Trans Mountain Pipeline L.P. (Trans Mountain) has submitted an application to the National Energy Board (NEB) for a proposed expansion of the Trans Mountain Pipeline System. As part of our efforts to develop the project, Trans Mountain needs to undertake engineering and environmental studies, not only on the proposed route but also on lands adjacent to the route. To complete this work, Trans Mountain's engineers and environmental scientists will require access to some property within a selected corridor. While your lands are in close proximity to our study corridor, Trans Mountain does not anticipate entering your property for any investigations or surveys. Should the need for investigations or entry onto your property arise in the future, a land agent from the project will contact you first to provide you with more information on the need to access your property.

The NEB has published a guide called *Pipeline Regulation in Canada: A Guide for Landowners and the Public* that provides a good summary of the NEB approval process, landowner rights and other topics which may be of interest to you. The guide is available on the NEB website in the Public Participation and Land Matters section at:

<http://www.neb-one.gc.ca/clf-nsi/rthnb/pblcprtctpn/pplnrgltncnd/pplnrgltncnd-eng.pdf>

More information about our proposed project is available through the project website at [www.transmountain.com](http://www.transmountain.com). The facility application to the NEB, filed on December 16, 2013, is also available on this website. You may also contact Trans Mountain directly by email at [info@transmountain.com](mailto:info@transmountain.com), or by phone at 1-866-514-6700.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Toth', written over a white background.

Greg Toth  
Senior Project Director  
Trans Mountain Expansion Project

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2844 Bainbridge Avenue, PO Box 84028, Bainbridge, Burnaby, BC, V5A 4T9 CANADA

# Appendix 3: Kinder Morgan Flyer Hand Delivered to Residents Week of February 3, 2014

Source: Constituents

## Trans Mountain Expansion Project

February 3, 2014

Trans Mountain Pipeline ULC

### What you need to know about the Trans Mountain Expansion Project

After nearly two years of conversations, studies and planning, Trans Mountain filed a Facilities Application with the National Energy Board (NEB) in December 2013 for its proposed \$5.4 billion expansion project.

Respectful and authentic dialogue begins with transparency and a common understanding of the facts. As we move forward in the regulatory process, we are committed to making sure that people have access to the facts about our proposal and the process. The following is aimed at correcting misinformation being spread by individuals and groups in your community.



#### CLAIM

*Land will be expropriated; people will lose their homes.*

#### REALITY

Trans Mountain does not have the right to expropriate land. We have established and maintained relationships with landowners – 2,200 along the current pipeline including three private landowners in Burnaby – neighbours and communities along the pipeline corridor for the last 60 years. Our goal is to treat all landowners fairly and equitably. In the unlikely event that we cannot reach an agreement with a landowner, the NEB can grant right of entry to allow us to build and maintain the pipeline, but not to expropriate or take away any land or homes from owners.



#### CLAIM

*The route for the proposed Trans Mountain Expansion Project has already been determined.*

#### REALITY

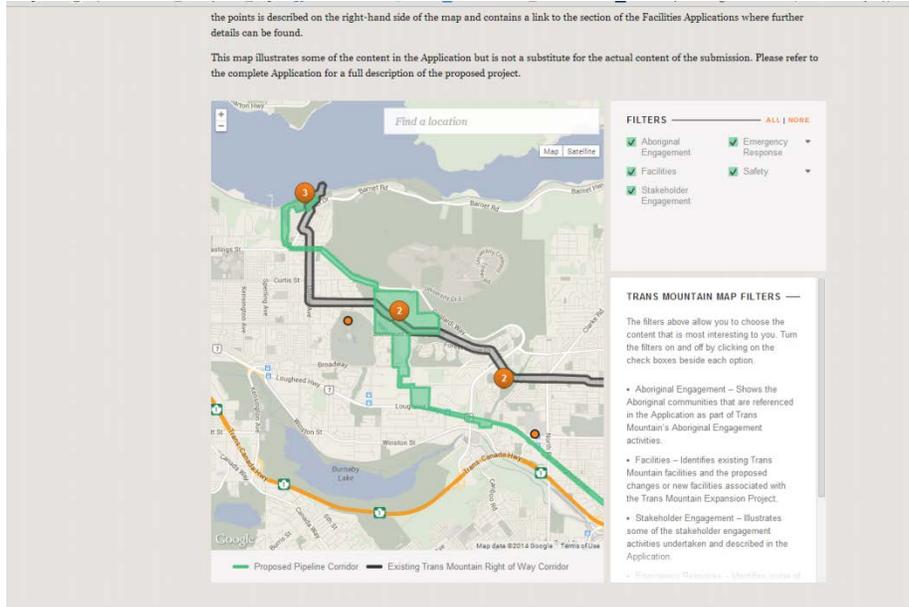
In our Facilities Application, we've identified a potential pipeline corridor, and in some cases, multiple alternatives. These corridors are wider than what the permanent right-of-way will be. They provide the flexibility to respond to stakeholder input or to place the pipe so as to minimize local community or environmental impacts. A final right-of-way will be determined only after regulatory approval and during the detailed design phase. It is important to note that 73 per cent of the proposed expanded pipeline will follow the existing right-of-way where the Trans Mountain pipeline has been operating safely for 60 years. An additional 17 per cent of the proposed expansion will follow existing utility corridors and only the remaining 10 per cent would require greenfield right-of-way.

KINDER MORGAN  
ENERGY

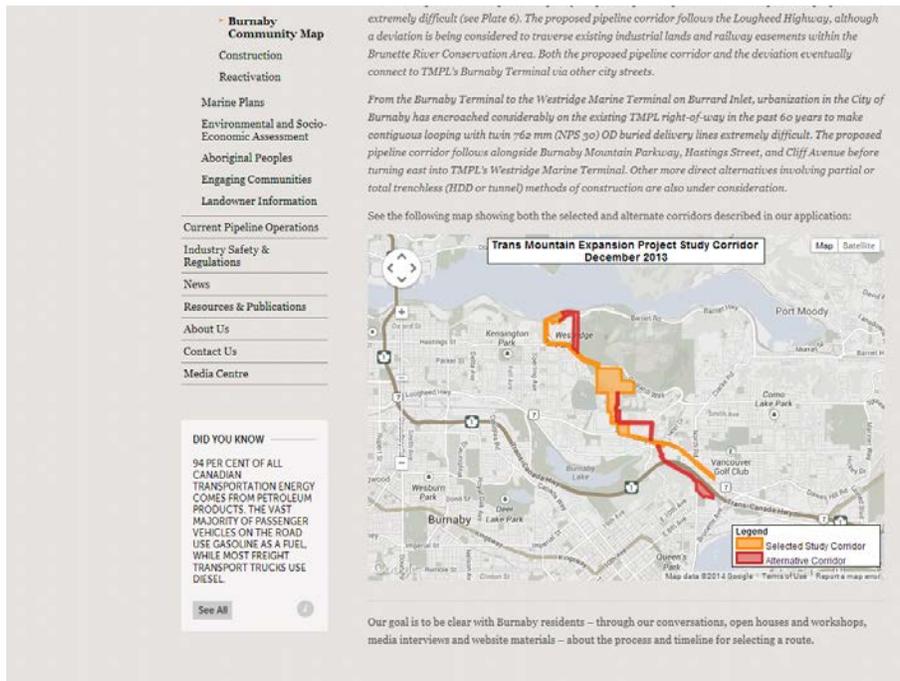
# Appendix 4: Conflicting Burnaby Route Maps

Source: Trans Mountain Facilities information website. <http://www.transmountain.com>

Screen shot, Monday Feb 17, 2014: Interactive Map

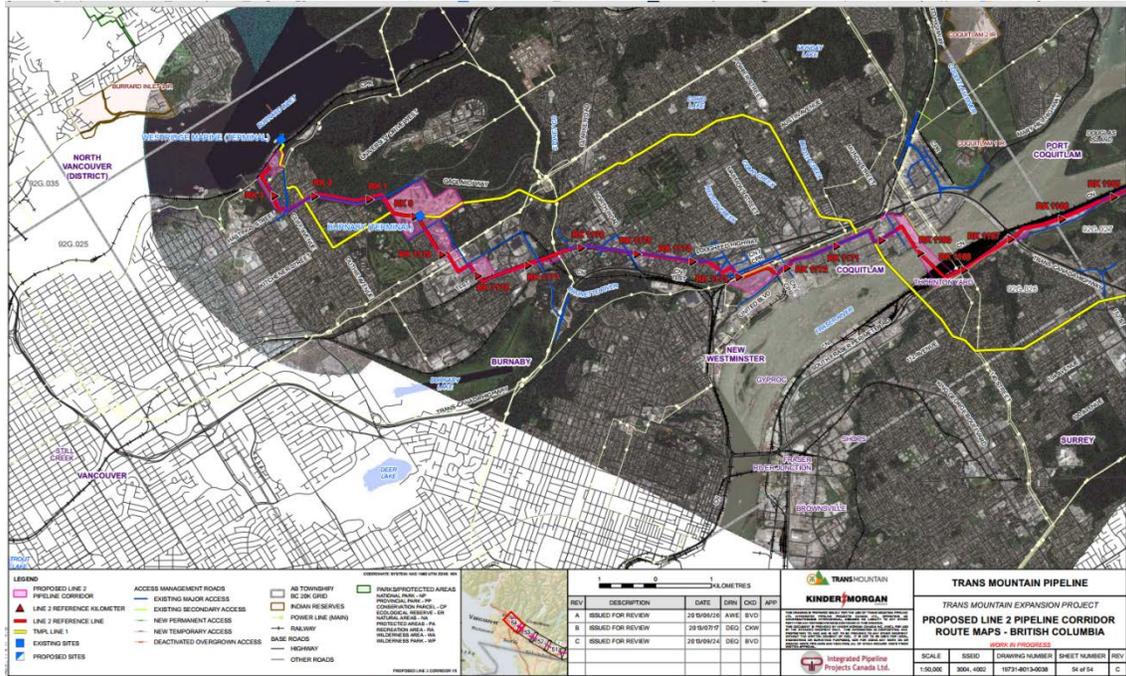


Screen shot, Monday Feb 17, 2014: Map added on February 10<sup>th</sup> under “Burnaby Community Map” tab



# Map of Burnaby Pipeline route - no alternate route visible

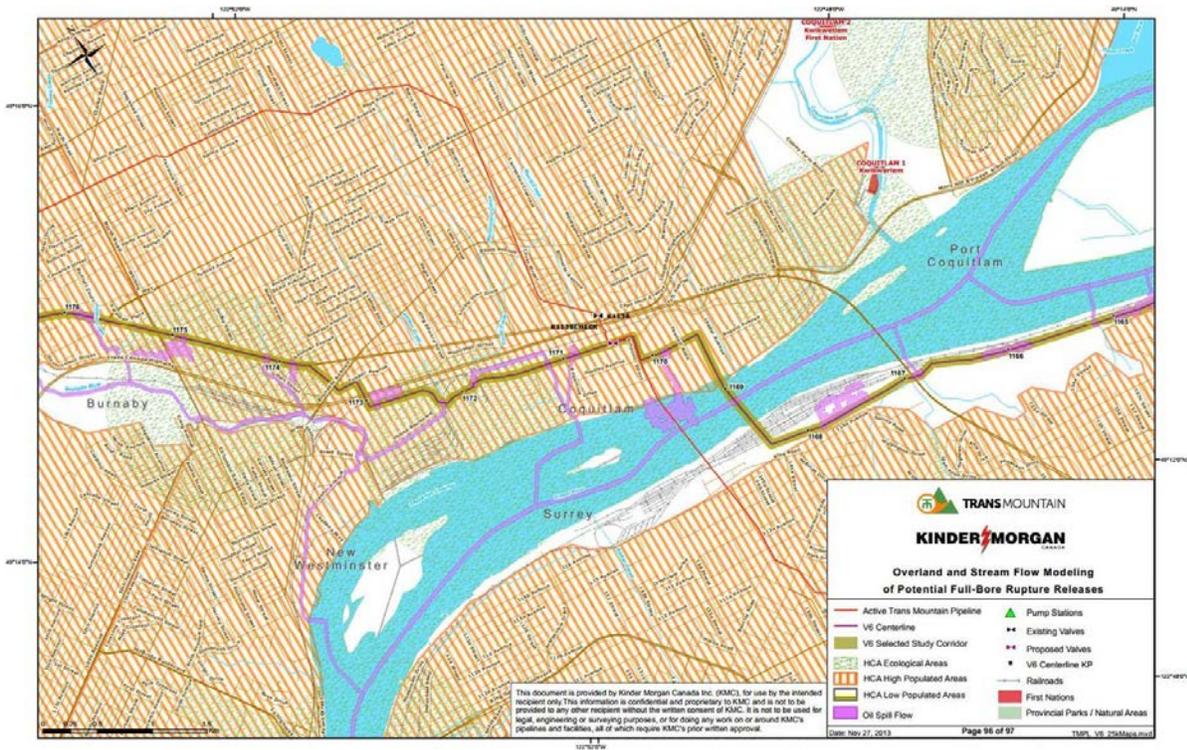
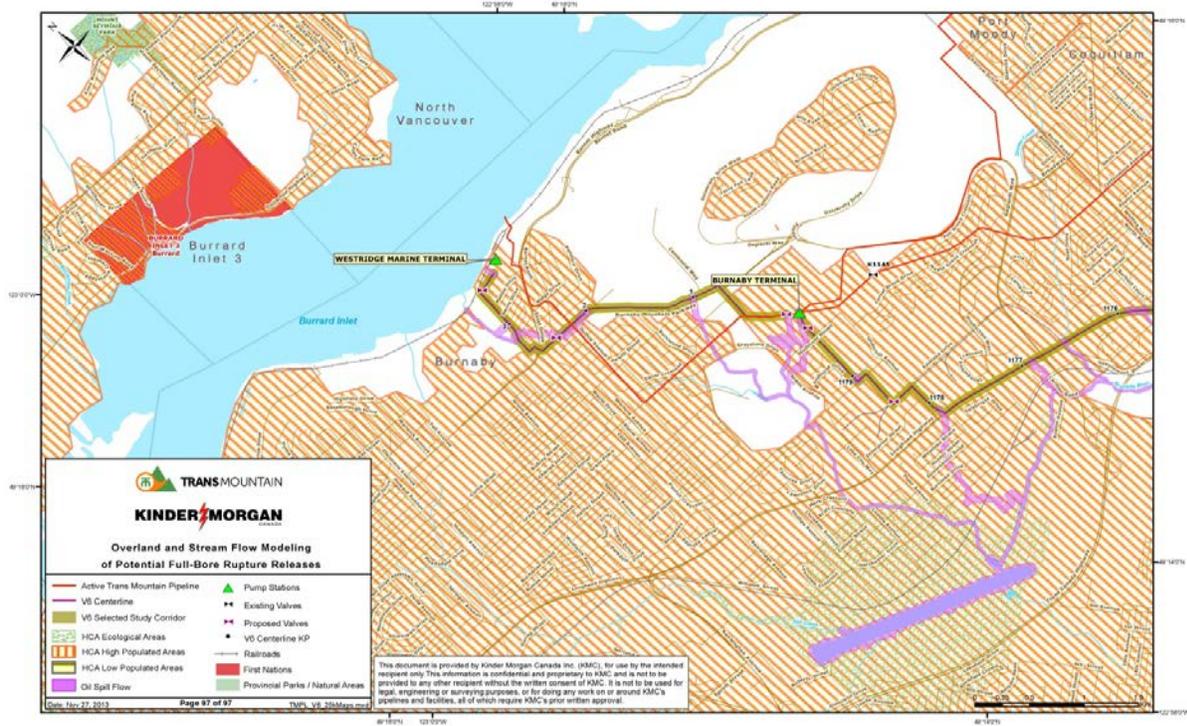
Source: Trans Mountain Facilities Application



# Appendix 5: Burnaby Oil Spill Maps

Oil spill maps with no alternate pipeline routes visible

Source: Trans Mountain Facilities Application



## Appendix 6: NEB Information Card

NEB Information Cards distributed to some residents in Burnaby along the 'selected' route

Source : Constituent



National Energy  
Board

Office national  
de l'énergie

*jued 7/10/20*

Canada

The National Energy Board (NEB) expects to receive an application in December 2013 for the Trans Mountain Expansion Project. The project would expand the existing Trans Mountain pipeline system between Edmonton, AB and Burnaby, BC. There would also be an expansion of the Westridge Marine Terminal.

If the application is complete, the NEB will hold a public hearing into the matter before making a recommendation to the Governor in Council. **You may be eligible to participate** in the NEB hearing and to receive participant funding.

To sign up for email updates and to learn more about the hearing process, the application to participate and participant funding, visit:

[www.neb-one.gc.ca](http://www.neb-one.gc.ca)

*select Major Applications then Trans Mountain Expansion*

NEB staff will be hosting online information sessions about the NEB hearing process which you can access through your computer or telephone. Please visit the NEB website to sign up for the date and time that works for you.

For more information contact Reny Chakkalaka, NEB Hearing Process Advisor, by email at [TransMountainPipeline.Hearing@neb-one.gc.ca](mailto:TransMountainPipeline.Hearing@neb-one.gc.ca) or toll free at 1-800-899-1265.

*W*